



## INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • [www.idem.IN.gov](http://www.idem.IN.gov)

Eric J. Holcomb  
Governor

**JUL 28 2017**

Bruno L. Pigott  
Commissioner

VIA CERTIFIED MAIL: 7016 3010 0001 0287 5405

Steven J. O'Day, President  
George O'Day's, Inc.  
19 143<sup>rd</sup> Street  
Hammond, IN 46323

VIA CERTIFIED MAIL: 7016 3010 0001 0287 5412

Steven J. O'Day, Registered Agent  
George O'Day's, Inc.  
9096 Winding Trail  
St. John, IN 46373

Re: Notice of Violation and Proposed Agreed Order  
for Violations Identified via Inspection  
George O'Day's, Inc.  
Plant ID: 089-00459  
Hammond, Lake County  
Case No.: 2017-24571-A

Dear Mr. O'Day:

On June 7, 2017, a representative of the Indiana Department of Environmental Management (IDEM), Office of Air Quality, conducted an inspection of George O'Day's, Inc. located at 19 143<sup>rd</sup> Street in Hammond, Indiana. This inspection was conducted pursuant to IC 13-14-2-2, and a summary of the inspection, mailed on June 27, 2017, was provided pursuant to IC 13-14-5.

As a result of information obtained during this inspection, IDEM alleges that a violation of FESOP No.: 089-35129-00459, Permit Conditions D.1.8 and D.1.9 occurred. Specifically, a failure to conduct weekly observations of overspray from spray coating Booth 2; failure to conduct monthly observations of coating emissions from the stack and around the sides of the building; and failure to maintain a log of weekly and monthly overspray observations.

In accordance with IC 13-30-3-3, this letter includes a Notice of Violation that sets forth the alleged violations and an Agreed Order that provides George O'Day's, Inc. the opportunity to settle this enforcement action. IDEM encourages settlement by Agreed Order when possible to quickly correct environmental violations and avoid litigation.

The alleged violations identified in the Notice of Violation are among those that IDEM has determined qualify for expedited enforcement. This means the enclosed Agreed Order is non-negotiable, and it represents IDEM's best settlement offer in this matter. The civil penalty included in the Agreed Order is the penalty amount that IDEM will accept only for the settlement of the alleged violations identified therein under its expedited enforcement program.

If George O'Day's, Inc. agrees to settle this enforcement action in accordance with the enclosed Agreed Order, its Responsible Official should sign and return the entire original Agreed Order within sixty (60) days of receipt to IDEM at the following address:

Deborah A. Cole, Case Manager  
Indiana Department of Environmental Management  
Compliance and Enforcement Branch, Office of Air Quality  
100 North Senate Avenue  
Indianapolis, IN 46204

The civil penalty should be sent to the address listed in the Agreed Order within fifteen (15) days of your receipt of a copy of the final adopted Agreed Order. The final adopted Agreed Order will be mailed to you after it is approved and signed by the Assistant Commissioner of IDEM's Office of Air Quality.

IDEM is not required to extend the offer of entry into the Agreed Order for more than sixty (60) days. Because Indiana law allows a source to enter into an Agreed Order without admitting that the violation occurred, the attached Agreed Order includes this non-admission language. (See line 3 of the first paragraph of the Agreed Order). If the Agreed Order is not entered into, IDEM may proceed with additional enforcement action requiring compliance with Permit Conditions D.1.8 and D.1.9 and seeking monetary penalties in accordance with IDEM's Civil Penalty Policy (ID No.: Enforcement 99-0002-NPD), which likely will result in a greater penalty than the penalty amount offered in this Agreed Order.

Please contact Deborah A. Cole, Case Manager, of my staff, at 317-234-5377 or by e-mail at [dcole@idem.in.gov](mailto:dcole@idem.in.gov) if you have any questions.

Sincerely,



David P. McIver, Chief  
Enforcement Section  
Office of Air Quality

cc: Lake County Health Department  
Deborah A. Cole, Compliance and Enforcement Branch, Office of Air Quality  
Randy Hoffman, Compliance and Enforcement Branch, Office of Air Quality  
Martin H. Yeates, Compliance and Enforcement Branch, Office of Air Quality  
Rochele Marceillars, US EPA Region 5



## INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • [www.idem.IN.gov](http://www.idem.IN.gov)

Eric J. Holcomb  
Governor

**JUL 28 2017**

Bruno L. Pigott  
Commissioner

### NOTICE OF VIOLATION

Steven J. O'Day, President  
George O'Day's, Inc.  
19 143<sup>rd</sup> Street  
Hammond, IN 46323

Steven J. O'Day, Registered Agent  
George O'Day's, Inc.  
9096 Winding Trail  
St. John, IN 46373

Case No.: 2017-24571-A

Based on an investigation on June 7, 2017, the Indiana Department of Environmental Management ("IDEM") has reason to believe that George O'Day's, Inc. ("Respondent") has violated conditions included in an environmental permit. The violations are based on the following:

1. Respondent owns and operates a stationary locker painting facility with Plant I.D. No.: 089-00459 located at 19 143<sup>rd</sup> Street in Hammond, Lake County, Indiana (the "Site").
2. Pursuant to FESOP No.: 089-35129-00459, Permit Condition D.1.8(a), (Dry Filter Monitoring), in order to monitor the performance of the dry filters, weekly observations shall be made of the overspray from the spray coating booth (Booth 2) exhaust stack (S-3) while the booth is in operation.

Respondent failed to conduct weekly observations of overspray from the spray coating booth (Booth 2) exhaust stack (S-3) during the period from March 2015 through May 2017, in violation of Permit Condition D.1.8(a).

3. Pursuant to FESOP No.: 089-35129-00459, Permit Condition D.1.8(b), (Dry Filter Monitoring), monthly inspections shall be performed of the coating emissions from the stack and the presence of overspray on the sides of the building and the nearby ground.

Respondent failed to conduct monthly inspections of the coating emissions from the stack and the presence of overspray on the sides of the building and the nearby ground during the period from March 2015 through May 2017, in violation of Permit Condition D.1.8(b).



4. Pursuant to FESOP No.: 089-35129-00459, Permit Condition D.1.9(c) (Record Keeping), to document compliance with Condition D.1.8, the Permittee shall maintain a log of weekly overspray observations and daily and monthly inspections.

Respondent failed to maintain a log of the required weekly overspray observations and daily and monthly inspections during the period from March 2015 through May 2017, in violation of Permit Condition D.1.9(c).

In accordance with IC 13-30-3-3, the Commissioner herein provides notice that a violation may exist and offers an opportunity to enter into an Agreed Order providing for the actions required to correct the violation and for the payment of a civil penalty for the violation. The Commissioner is not required to extend this offer for more than sixty (60) days. An Agreed Order for your consideration is attached. As noted on the attached Agreed Order, it is a qualified offer of settlement of this matter and, therefore, is inadmissible pursuant to Indiana's Rules of Evidence.

As provided in IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting that the violation occurred. IDEM encourages settlement by Agreed Order to quickly correct environmental violations and to avoid litigation.

If the Agreed Order is not entered into within sixty (60) days of receipt of this Notice of Violation, the Commissioner may proceed with additional enforcement action requiring compliance with FESOP No.: 089-35129-00459, Permit Conditions D.1.8 and D.1.9 and seek additional monetary penalties in accordance with IDEM's Civil Penalty Policy (ID No.: Enforcement 99-0002-NPD). Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

Please contact Deborah A. Cole, Case Manager, of my staff, at 317-234-5377 or by e-mail at [dcole@idem.in.gov](mailto:dcole@idem.in.gov) if you have any questions.

For the Commissioner:

Date: 7-27-17

  
\_\_\_\_\_

David P. McIver, Chief  
Enforcement Section  
Office of Air Quality

cc: Lake County Health Department  
Deborah A. Cole, Compliance and Enforcement Branch, Office of Air Quality  
Randy Hoffman, Compliance and Enforcement Branch, Office of Air Quality  
Martin H. Yeates, Compliance and Enforcement Branch, Office of Air Quality  
Rochelle Marceillars, US EPA Region 5



## INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • [www.idem.IN.gov](http://www.idem.IN.gov)

Eric J. Holcomb  
Governor

Bruno L. Pigott  
Commissioner

Respondent Name: George O'Day's, Inc.  
Case Number: 2017-24571-A

### **AGREED ORDER**

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to IC 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

### **I. FINDINGS OF FACT**

1. Complainant is the Commissioner ("Complainant") of the Indiana Department of Environmental Management ("IDEM"), a department of the State of Indiana created by Indiana Code ("IC") 13-13-1-1.
2. Respondent is George O'Day's, Inc. ("Respondent"), which owns and operates the source with Plant ID No.: 089-00459, located at 19 143<sup>rd</sup> Street, in Hammond, Lake County, Indiana ("Site").
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation ("NOV") via certified mail to:

Steven J. O'Day, President  
George O'Day's, Inc.  
19 143<sup>rd</sup> Street  
Hammond, IN 46323

Steven J. O'Day, Registered Agent  
George O'Day's, Inc.  
9096 Winding Trail  
St. John, IN 46373

5. At the time of an inspection conducted on June 7, 2017, the following violations were observed at the Site by a representative of IDEM's Office of Air Quality ("OAQ").

- (a) Pursuant to FESOP No.: 089-35129-00459, Permit Condition D.1.8(a), (Dry Filter Monitoring), in order to monitor the performance of the dry filters, weekly observations shall be made of the overspray from the spray coating booth (Booth 2) exhaust stack (S-3) while the booth is in operation.

Respondent failed to conduct weekly observations of overspray from the spray coating booth (Booth 2) exhaust stack (S-3) during the period from March 2015 through May 2017, in violation of Permit Condition D.1.8(a).

- (b) Pursuant to FESOP No.: 089-35129-00459, Permit Condition D.1.8(b), (Dry Filter Monitoring), monthly inspections shall be performed of the coating emissions from the stack and the presence of overspray on the sides of the building and the nearby ground.

Respondent failed to conduct monthly inspections of the coating emissions from the stack and the presence of overspray on the sides of the building and the nearby ground during the period from March 2015 through May 2017, in violation of Permit Condition D.1.8(b).

- (c) Pursuant to FESOP No.: 089-35129-00459, Permit Condition D.1.9(c) (Record Keeping), to document compliance with Condition D.1.8, the Permittee shall maintain a log of weekly overspray observations and daily and monthly inspections.

Respondent failed to maintain a log of the required weekly overspray observations and daily and monthly inspections during the period from March 2015 through May 2017, in violation of Permit Condition D.1.9(c).

6. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Agreed Order.

## **II. ORDER**

1. This Agreed Order shall be effective ("Effective Date") when it is adopted via signature by Complainant or Complainant's delegate, and the adopted Agreed Order has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date. This offer to settle the allegations contained in this Agreed Order does not bind or obligate the parties of this enforcement action if the Agreed Order is not adopted.
2. Respondent is assessed a civil penalty of Five Hundred Dollars (\$500.00). Respondent shall pay said penalty amount no later than fifteen (15) days after the Effective Date

("Due Date"). In the event that the civil penalty is not paid by the Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1-101.

3. In the event the terms and conditions of this Agreed Order are violated, Complainant may seek additional relief.
4. Civil penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

IDEM Office of Legal Counsel  
IGCN, Room N1307  
100 N Senate Ave  
Indianapolis, IN 46204

5. This Agreed Order shall apply to and be binding upon Respondent and its successors and assigns. Respondent's signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent. No change in ownership, corporate, or partnership status of Respondent shall in any way alter its status or responsibilities under this Agreed Order.
6. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
7. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of its obligation to comply with the requirements of its applicable permit or any applicable Federal or State law or regulation.
8. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation.
9. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the same violations specified in the NOV.
10. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the EPA or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the EPA or any other agency or entity.
11. The parties were free to consult with their respective counsel regarding entry into this Agreed Order to the extent each deemed necessary.

TECHNICAL RECOMMENDATION:  
Department of Environmental Management

By: David P. McIver  
David P. McIver, Chief  
Enforcement Section  
Office of Air Quality

Date: 7-27-17

RESPONDENT:\*  
George O'Day's, Inc.

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_.

For the Commissioner:

By: \_\_\_\_\_  
Keith Baugues, Assistant Commissioner  
Office of Air Quality

**\* In the event that Respondent does not accept the settlement offer contained in this Agreed Order, IDEM notes that this document is a qualified offer of settlement, and therefore Rule 408 of Indiana Rules of Evidence applies to this document, rendering it inadmissible.**